IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE V.ESWARAIAH**

**WRIT PETITION No. 23291 of 2005**

Between:

T.A.V.V.L. Narasimha Murthy

**..... PETITIONER**

AND

The District Supply Officer,

West Godavari District, Eluru and 2 others

**.....RESPONDENTS**

**ORDER:**

Seeking a Mandamus, declaring the impugned order No.Roc.1614/2005(c), dated 11.10.2005 issued by the 2nd respondent, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The impugned proceedings dated 11.10.2005 has been issued to the petitioner stating that the petitioner has not maintaining accounts properly. The petitioner is alleged to be found that he did not enter the receipt of 400 litres of kerosene on 30.09.2005 in the stock register till the date of inspection and also found that there is variation between book balance and ground stock of PDS rice to an extent of +2.79 Q.kgs, Sugar to an extent of –0.06 Q.kgs and also variation of kerosene to an extent of –36 litres. The petitioner also failed to exhibit price list on stock board and thus, it is alleged that the petitioner is indulging in clandestine business and accordingly, the impugned proceedings as well as show cause notice have been issued, as to why disciplinary action shall not be taken against him for the said irregularities.

It is stated that the both the show cause notice and suspension orders were passed on 11.10.2005 and the same were served on the petitioner on 15.10.2005, and hence 7 days time is already over for submitting his explanation to the show cause notice.

The learned counsel for the petitioner contended that as per Clause 8 of the Andhra Pradesh Scheduled Commodities Dealers (Licensing and Distribution) Order, 1982 (for short 'Order, 1982), no license can be cancelled or suspended without giving any opportunity to the dealer.

On the other hand, the learned Government Pleader for Civil Supplies contended that Order, 1982 has no application to the facts of the case, and the relevant order applicable to the facts of the case is the Andhra Pradesh State Public

Distribution System Control Order, 2001 (for short 'Order, 2001')

Admittedly, in the instant case, it is not a license granted under Order, 1982, but it is a license granted under Order, 2001, and therefore, the relevant provision for suspending the license is Clause 5 of Order, 2001, which deals with issue of authorization of fair price shops and establishment. Under Clause 5(4) of Order, 2001, the appointing authority at any time is authorized, even suo moto, to make an enquiry and after recording the reasons, the license can be suspended.

In the instant case, the suspension of license is not a measure of punishment, but it is only suspension pending enquiry. Therefore, though there is no specific power to suspend the license pending enquiry, but the power to suspend pending enquiry is ancillary and incidental to the power to suspend or cancel the authorization after recording the reasons, under Clause 5(4) of the Control Order, 2001. Therefore, I see no reason to entertain this writ petition. However, the petitioner is permitted to submit his explanation to the show cause notice dated 11.10.2005, within a period of 7 days from the date of receipt of a copy of this order, and on filing such explanation, the 2nd respondent may consider and dispose of the same, in accordance with law.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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**V.ESWARAIAH,J**

Dated: 28.10.2005

Dsr